

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-53, drawn to "a System for creating a program for delivery to a client in a video time shifting architecture" and "a System and Method for delivering local advertising to a client in a video distribution system."
  - II. Claims 54-93, drawn to "a System and Method for displaying a program asset and/or an advertisement to a user."
  - III. Claims 94-109, drawn to "a Method for delivering both recorded and live programming and advertising via indexing to a user."
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I does not require the system and method for delivering local advertising to a client in a video distribution system as in invention II. See MPEP §806.05(d).
4. Inventions I and III are related as a combination drawn to a subcombination. The subcombination of invention III is a specific case of the subcombination of invention I. In the instant case, invention I delivers local advertising to a client in a video distribution system. Invention III identifies specific aspects of the video distribution system described in invention I, namely recorded and live programming via indexing to a user. See MPEP §806.05(c) and MPEP §806.05(j).

5. Inventions II and III are related as a combination drawn to a subcombination. The subcombination of invention III is a specific case of the subcombination of invention II. In the instant case, invention II displays a program asset and/or an advertisement to a user. Invention III identifies specific aspects of the display system described in invention II, namely indexing to a user. See MPEP §806.05(c) and MPEP §806.05(j).
6. Because these inventions are distinct for the reasons given above and the searches are distinct, and because they have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
8. Applicant is reminded that upon cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM CHORNESKY whose telephone number is (571)270-5103. The examiner can normally be reached on Monday - Thursday 7:30 AM - 5:00 PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on 571-270-3033. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A. Chornesky

/Lynda Jasmin/

Supervisory Patent Examiner, Art Unit 4127